

Comment Letter CCWD2



CONTRA COSTA
WATER DISTRICT
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CCWD2

September 11, 2006

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U.S. Bureau of Reclamation
2800 Cottage Way, MP-700
Sacramento, CA 95825

Mr. Paul Marshall
California Department of Water Resources
Bay Delta Office
1416 Ninth Street
Sacramento, CA 95814

**Re: Draft Environmental Impact Statement/Environmental Impact Report for
the South Delta Improvements Program**

Dear Ms. McHale and Mr. Marshall:

Contra Costa Water District (CCWD) offers the following comments to supplement our February 7, 2006 comment letter on the Draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR) prepared by the California Department of Water Resources and the United States Bureau of Reclamation for the proposed South Delta Improvements Program (SDIP). These supplemental comments are based upon new information that was not available when the February 7, 2006 letter was written.

Both permanent operable barriers (Stage 1 of the SDIP) and increased State Water Project export pumping from the Delta (Stage 2 of the SDIP) will alter Delta flows and salinity in ways that could harm Delta fish species. As we wrote on February 7, the DEIS/EIR analysis of the SDIP's potential significant adverse impacts on fish is not adequate. Recent results reinforce our February 7 comments that it is necessary to examine the ecosystem effects of changes in Old River and Middle River flows, and also the ecosystem effects of changes in Delta salinity.

Delta smelt and striped bass are part of the pelagic organism decline, and populations of both reached historic lows in 2005 and in 2006¹. Concern that the SDIP may harm delta smelt and striped bass is heightened by the following recent results:

- **Changes in Old and Middle River flows may harm Delta smelt.** Recent work by the United States Geological Survey links harm to the smelt with net southward flows in Old and Middle Rivers. Both Stage 1 and Stage 2 of the SDIP will increase these flows. (The first phase of this work was presented at the Interagency Ecological Program's (IEP) annual Asilomar conference in March of 2006.)

CCWD2-1

¹ <http://www.delta.dfg.ca.gov/data/townet/>

Draft EIS/EIR for the South Delta Improvements Program
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Page 2

- **Increased fall salinity may harm Delta smelt.** There has been a significant decline in fall habitat quality for delta smelt in recent years. This is largely because of increased fall salinity in the western Delta, which will be further increased by Stage 2 of the SDIP. (Recent presentations by IEP staff, at the 2006 IEP Asilomar conference and elsewhere, show this result. It is consistent with CCWD's work that links the decline in delta smelt populations with the recent increase in fall salinity. See the attachment to this letter.)
- **Increased fall salinity may harm striped bass.** Striped bass are also suffering from a decline in fall habitat quality. This too is largely because of increased fall salinity in the western Delta, which will be further increased by Stage 2 of the SDIP. (See the attachment for a depiction of this trend from recent IEP presentation.)

CCWD2-2

CCWD2-3

In light of the above information, it is clear that the DEIS/EIR analysis of the SDIP's potential significant adverse impacts on fish is not adequate, and that the types of analysis that CCWD suggested in its February 7, 2006 letter are required.

Thank you for your consideration of these comments. If you have any questions, please call me at 925-688-8073.

Sincerely,

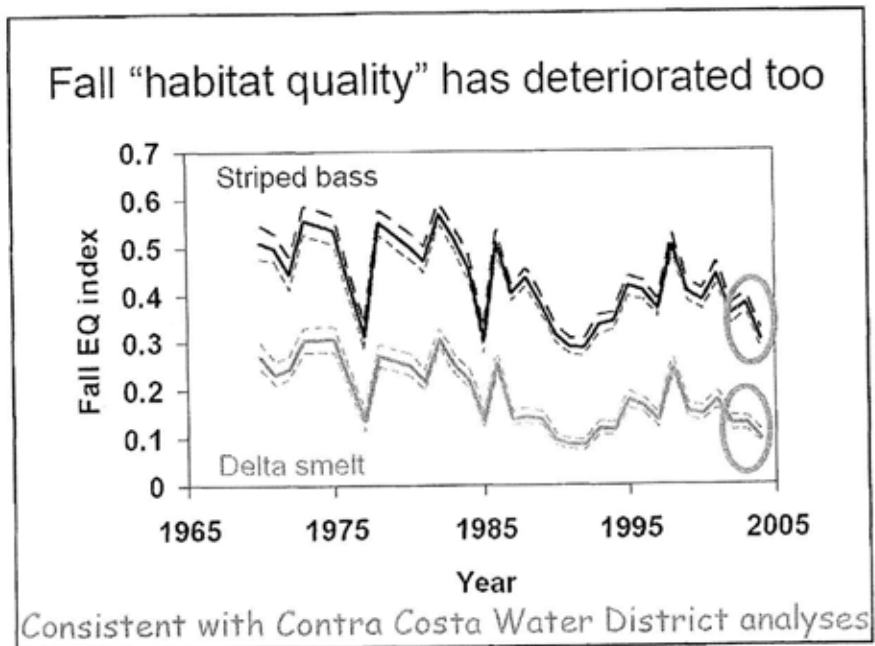

David Briggs
Water Resources Manager

DB/LSO/MG:wec

Attachment: Slide from presentation by IEP management staff to the State Water Resources Control Board in June, 2006.

Attachment. Slide from presentation by IEP management staff to the State Water Resources Control Board in June, 2006.

Available at: http://www.swrcb.ca.gov/agendas/2006/june/0607_03pres.pdf



Responses to Comments

CCWD2-1

Recent work by the USGS has evaluated the tidal flows at the Old River and Middle River stations located on opposite sides of Bacon Island. They report that the net flows toward the CVP and SWP pumps have been higher in the four recent years that are included in the POD hypothesis (2002–2005). This hydraulic effect of relatively high export pumping is being studied to determine whether it is linked to recent declines in delta smelt. No such link has been established by scientists.

Net Flows in South Delta Channels

As Section 5.2 of the Draft EIS/EIR describes, Old and Middle Rivers are the two major pathways for export water from the central Delta. The other channels are the head of Old River from the San Joaquin River near Mossdale, and Turner Cut, which connects Middle River to the San Joaquin River downstream of Stockton. DSM2 modeling results (page 5.2-13) show that about 50% of the CVP and SWP pumping (that is not supplied from the head of Old River) will flow upstream (south) in Old River from Franks Tract. About 5% of the export pumping flow will move upstream (east) in Dutch Slough from Big Break to Franks Tract. About 40% of the CVP and SWP pumping (not supplied from the head of Old River) will move upstream (south) in Middle River from the mouth or Columbia Cut. About 10% of the CVP and SWP pumping (not supplied by the head of Old River) will move upstream (southwest) in Turner Cut to Middle River.

Therefore, if the pumping is increased by 1,000 cfs, the Old River upstream flow from Franks Tract will increase by about 500 cfs (50 cfs from Big Break), the Middle River upstream flow will increase by 400 cfs, and the Turner Cut upstream flow will increase by 100 cfs. Similar flow increases in these central Delta channels would occur if the head of Old River flow were reduced by 1,000 cfs by tidal gate operations.

Operations of the Gates

The SDIP Draft EIS/EIR analysis assumes that the GORT would operate the head of Old River tidal gate, along with the other gates, to balance the various needs of the beneficial uses of the Delta channels. The GORT is made up of fish management agencies that are responsible for the protection of fish listed under the ESA, such as delta smelt, and other fish as appropriate. As described in Master Response O, the first priority for the GORT will be compliance with the BOs obtained for protection of the listed fish issued for Stage 1 of the SDIP.

The head of Old River tidal gate might be partially closed to protect San Joaquin River Chinook salmon juveniles in the months of March–June, or to increase the Stockton DWSC flows to improve DO concentrations in the months of July–September, or to improve San Joaquin River flows for adult Chinook salmon migration in the months of October–December. The possible effects of these potential tidal gate operations from March through December on delta smelt have not been specifically evaluated, because likely relationships between the central Delta channel flows and delta smelt abundance or survival in the south Delta have not been identified by IEP scientists.

In June and July, when delta smelt may be present in the vicinity of Franks Tract, gate operations have the potential to increase the net flow of water, and therefore smelt, from the central Delta to the south Delta area where they are subject to entrainment (see Appendix J and page 6.1-64 of the draft EIS/EIR). This is a result of the potential partial closure of the head of Old River gate to allow more water to flow down the San Joaquin River to improve DO conditions (see page 2-30 to 2-31 of the draft EIS/EIR). This is considered a less-than-significant impact because this potential operation of the gates in June and July is subject to the GORT, and it is assumed that the operations will be adjusted to comply with the BO and appropriate protection of delta smelt.

The GORT will consider these potential effects on delta smelt as they operate the head of Old River fish protection gates. It is likely that the magnitude of the flow changes will be considered relative to the abundance of delta smelt in the vicinity of Franks Tract and the fraction of the population that might be in the central Delta. Because delta smelt spawning may be limited by temperatures higher than 20°C, it is likely that temperatures will also be included in the decision matrix for operating the head of Old River tidal gate.

Stage 2 of the SDIP includes changes in export operations, in addition to the tidal gate operations. The effects of the resulting incremental entrainment are described in the draft EIS/EIR, and mitigation is proposed to reduce these effects to a less-than-significant level (See pages 6.1-94 to 6.1-97 of the draft EIS/EIR). There may be additional analysis of the increased pumping patterns and more specific information on the relationship of central Delta flows and delta smelt abundance. All of the new information that may result from the intensive POD investigations, including contributions from CCWD staff, will be included in the Stage 2 evaluations.

CCWD2-2

Fall salinity in the western Delta is regulated by D-1641 Delta outflow objectives. The Jersey point EC values in the fall months have actually been relatively constant (in the range of 1,500 to 2,000 $\mu\text{S}/\text{cm}$) for the previous six years (1999–2004). EC values were only slightly lower in 2005 and are expected to be relatively low again this year, because of higher-than-normal runoff and storage releases to meet flood control storage levels at the end of September or October. These salinity data suggest that the salinity gradient has been quite


stable for the last several years, and no abrupt change appears to correspond with the POD years (2002–2005).

The work efforts that CCWD staff is contributing to the general POD investigations are commendable. But because CCWD has not released their analyses for scientific review, Reclamation and DWR scientists are unable to comment on the specific results suggested in the CCWD letter. Correlations and regression equations should not be confused with an ecological linkage. Linkages have to be established and confirmed through additional experimental evidence. The scientific products from CCWD staff will be given equal weight to other reports by IEP scientists that are produced during the POD evaluations and subsequent SDIP Stage 2 evaluations.

CCWD2-3

The decline in striped bass abundance indices has been ongoing for many years and does not seem to be obviously connected to any recent changes in water management. Appendix J describes these long-term fish abundance indices. The POD investigations are attempting to find scientific evidence that something in recent conditions is linked to the consistently low indices for delta smelt, longfin smelt, and striped bass. The relatively high recent abundance indices for threadfin shad, American shad, and Black Sea jellyfish suggest that many biological processes within the pelagic ecosystem (e.g., food supply, competition, predation) will need to be investigated and understood to resolve the POD hypothesis. All possible lines of evidence are being pursued and investigated by IEP scientists. Contributions from CCWD staff to demonstrate a linkage with salinity habitat will be fully considered during the upcoming POD evaluations and subsequent SDIP Stage 2 evaluations.

Comment Letter FC

	<i>To: Paul Marshall</i>
	FC
	County of Fresno
	BOARD OF SUPERVISORS
	SUPERVISOR JUDITH G. CASE – DISTRICT FOUR
	JAN 09 2006
	041
December 13, 2005	
Mr. Lester Snow, Director Department of Water Resources State of California Sacramento, CA 95814	
SUBJECT: South Delta Improvements Program	
Dear Mr. Snow:	
<p>On behalf of Fresno County, I am writing today to express our organization's support for the Department of Water Resources' (DWR) South Delta Improvements Program (SDIP), a critical water supply, water quality and environmental project designed to meet California's diverse water needs. This November, DWR and the U.S. Bureau of Reclamation released a draft Environmental Impact Report/Statement (EIR/S) for SDIP, kicking off an important public review and comment period.</p>	
<p>As you know, California is facing a critical challenge: We need a safe, reliable and high-quality water supply to keep up with our rapidly rising population and fast-growing trillion-dollar economy. However, we have limited water supplies in our arid state, so we must better utilize our existing water resources and infrastructure; otherwise, we put our communities, farms, environment and businesses at great risk. Two-thirds of California receives its water from the San Francisco Bay/Sacramento-San Joaquin Delta. Given its importance, we need better ways to manage the Delta's water delivery system, as well as the water itself. In essence, we need to make every drop count.</p>	
<p>In 2000, the state and federal governments initiated the historic CalFed Bay-Delta Program to manage the Bay-Delta's water resources and ecosystem. A unique collaboration of interests supported the plan including environmental organizations, water agencies, business interests, farmers, and state and federal water and fish agencies. SDIP is the next step forward in this long-term planning effort for the Bay-Delta.</p>	
<p>SDIP is a responsible and balanced plan to better utilize and integrate our existing water management infrastructure in the Delta. Collectively, it will improve our state's water supply reliability, water quality and the overall health of the Bay-Delta ecosystem. The program will construct season tidal gates to protect fish, and improve water circulation and quality in the Delta, dredge select Delta channels to improve water deliveries for local farmers, and allow State Water Project deliveries to increase modestly – only when needed and environmentally safe to do so.</p>	
Room 300, Hall of Records / 2281 Tulare Street / Fresno, California 93721-2198 / (559) 488-3664 / FAX (559) 488-6830 / 1-800-742-1011 Equal Employment Opportunity • Affirmative Action • Disabled Employer	

Mr. Lester Snow, Director
December 13, 2005
Page 2

JAN 09 2006

041

Currently, the state is constrained in its ability to use surplus water supplies. We have the infrastructure to move the water, but until SDIP is approved, the state's water managers cannot fully or responsibly use the existing system. SDIP calls for only a 3-5% increase in the average amount of water pumped from the Delta. More significantly, SDIP will provide the flexibility to shift the timing of water deliveries when surplus is available and when environmentally safe to do so. SDIP is an ideal option for California to advance – it will not require building a new project or the construction of major new infrastructure. And, funding for the program has already been secured through passage of voter-approved bonds in 2000 (Proposition 13).

Importantly, SDIP will help protect important Delta environmental resources. Specifically, it will help protect fish species in the Delta channels. At the same time, by providing the state greater flexibility in how and when SDIP operates its system of pumps, fish are granted greater protections.

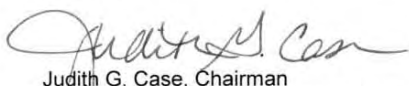
FC-1

Given all these points, SDIP is supported by a statewide, broad coalition of water, agriculture, business, planning organizations, and local government officials including the Association of California Water Agencies, State Water Contractors, California Chamber of Commerce, California Business Properties Association and the Western Growers Association.

Water is the lifeblood of California – critical to our families, farms and businesses. It is our responsibility to use this precious resource wisely through all possible best management practices, including water conservation, recycling and storage, to ensure California's water future. It is imperative that we have a more flexible water delivery system so that we can continue to accommodate growth in our population and economy while relying on existing water supplies.

Again we strongly support SDIP and encourage all key stakeholders to help advance this critically needed project.

Sincerely,



Judith G. Case, Chairman
Fresno County Board of Supervisors


cc: Honorable Governor Arnold Schwarzenegger
Mr. Ryan Broderick, Director, California Department of Fish and Game
Mr. Mike Chrisman, Secretary, California Resources Agency
Mr. Joe Grindstaff, Director, California Bay-Delta Authority
Mr. Kirk Rodgers, Regional Director, Mid-Pacific Region, U.S. Bureau of Reclamation
Mr. Dan Skopec, Deputy Cabinet Secretary, Office of the Governor
Mr. Terry Tamminen, Cabinet Secretary, Office of the Governor

Responses to Comments

FC-1

The commenter's description of the project's benefits and support for the project are noted.

Comment Letter HC

		HC
	<p>BOARD OF SUPERVISORS</p> <p>COUNTY OF HUMBOLDT</p> <p>825 5TH STREET EUREKA, CALIFORNIA 95501-1153 PHONE (707) 476-2390 FAX (707) 445-7299</p>	
January 24, 2006	JAN 31 2006 105	
<p>Paul A. Marshall, South Delta Branch California Department of Water Resources 1416 9th Street, 2nd Floor Sacramento, CA 95814</p>		
<p>RE: South Delta Improvements Program Comments – Draft Environmental Impact Statement/Environmental Impact Report</p>		
<p>Dear Mr. Marshall:</p> <p>The County of Humboldt has reviewed the above referenced November 2005 document by the California Department of Water Resources (DWR) and the US Bureau of Reclamation (BOR) and comments provided by Trinity County. We hereby support Trinity County's comments and recommend that DWR and BOR withdraw the proposed Draft Environmental Impact Statement/Environmental Impact Report (DEIS/R) for this project because of numerous legal and technical inadequacies. Some inadequacies include, but are not limited to the following:</p> <ul style="list-style-type: none">• The document is based on the "Biological Opinion (BO) on the Long-Term Central Valley Project (CVP) and State Water Project (SWP) Operations Criteria and Plan (OCAP)," which has been found faulty. These findings were made public January 3, 2006. A report by the Department of Commerce's Inspector General also found the BO process violated government procedures. HC-1• The Document does not consider an alternative which reduces exports from the Delta, per the Third District Court of Appeals Decision (RCRC et v State of California). HC-2• The Document fails to incorporate prior water rights or reserved, such as those held by the County of Humboldt for 50,000 af annually, nor the water associated with the fishing rights of the Hoopa Valley and Yurok Tribes. HC-3 <p>The South Delta Improvements Program (SDIP) is based on Endangered Species Act compliance through the CVP OCAP. A revised Biological Opinion should be prepared with adequate analyses to determine jeopardy to listed species, including Klamath-Trinity coho salmon (Southern Oregon/Northern California Coho). The independent review by a team of 6 scientists concluded that the BO had deficiencies. Specifically that some models and analyses appeared to be flawed and that greater consideration should be given to genetic and spatial diversity in the ESUs. HC-4</p> <p>Clearly, the SDIP is inadequate and must be revised and completed prior to release of a new DEIS/R that considers an alternative that reduces Delta exports. We encourage and support development of a "Land Retirement Alternative" which returns water to environment. HC-5</p>		

January 24, 2006
Paul A. Marshall, Department Water Resources
Page 2.

JAN 31 2006 105

The 2000 Trinity River Record of Decision (ROD) called for increased fishery flows into the Trinity River from Trinity and Lewiston Dams. Humboldt County is concerned that the BOR intends to continue historic deliveries of CVP water, as stated in the numerous CVP long-term contracts such as the San Luis Unit, with possible larger deliveries.

HC-6

We disagree with the statement of the SDIP that impacts "salmonids with the Trinity River will be less than significant." This statement is misleading and based on assumptions which conflict with the Trinity ROD. The DEIR/R would likely have a severe impact to salmonids in the Klamath-Trinity watershed by having water temperatures instream being higher than State, federal and tribal water temperature standards and objectives. Therefore, the County believes the DWR and BOR declaration that there would be a "less than significant impact" to the Trinity River fisheries is untrue.

HC-7

Additionally, we believe that the SDIP DEIS/R is premature to approve at this time because it would be pre-decisional as it relates to renewal of CVP contracts south of the Delta and drainage issues in the San Luis Unit of the CVP. Currently, the BOR is negotiating Long-Term Contracts (LTC's) for San Luis Unit and Western San Joaquin Division CVP contractors and has released NEPA documents. The San Luis Drainage Feature Re-Evaluation has not been completed, nor has the intent of the San Luis Act of 1960 (P.L. 86-488) been met.

HC-8

In consideration of the above and comments submitted by Trinity County, to move forward with the SDIP before the San Luis Drainage Feature Re-Evaluation has been complete would be illegal and premature at this point in time. Humboldt County calls upon the Department of Water Resources and the Bureau of Reclamation to withdraw the South Delta Improvements Program Draft Environmental Impact Statement/Report at this time, and re-evaluate the potential impacts this action will take.

Thank you for the opportunity to comment on this document.

Should you have any questions regarding our comments, please contact Supervisor Jill Geist at 707-476-2395.

Sincerely,



John Woolley, Chair
Humboldt County Board of Supervisors

JW/kr

c: Trinity County Board of Supervisors
Clifford Lyle Marshall, Chairman, Hoopa Valley Tribal Council
Dennis Puz, Chairman, Yurok Tribal Council

Responses to Comments

HC-1 and HC-4

Please see Master Response A, *Relationship between the South Delta Improvements Program and the Operations Criteria and Plan*.

HC-2

Please see Master Response D, *Developing and Screening Alternatives Considered in the South Delta Improvements Program Draft EIS/EIR*.

HC-3

All current beneficial water uses along the Trinity River and below other CVP and SWP reservoirs are accounted for in the CALSIM modeling. These are incorporated into the minimum flow requirements or are specified as river diversions in the model. SDIP will have no effect on water rights or any upstream beneficial water uses.

HC-4

Please see Master Response A, *Relationship between the South Delta Improvements Program and the Operations Criteria and Plan*.

HC-5

Please see Master Response D, *Developing and Screening Alternatives Considered in the South Delta Improvements Program Draft EIS/EIR*.

HC-6 and HC-7

Please see Master Response N, *Trinity River Operations*.

HC-8

Please see Master Response Q, *Effects of the South Delta Improvements Program on San Joaquin River Flow and Salinity*.

Comment Letter KC



DEC 22 2005
COUNTY OF KERN
4TH DISTRICT SUPERVISOR
RAYMOND A. WATSON

KC

00012

December 6, 2005

Mr. Lester Snow
Director
Department of Water Resources
P.O. Box 942836
Sacramento, CA 94236-0001

RE: South Delta Improvements Program

Dear Director Snow,

I am writing today to express my support for the Department of Water Resources' (DWR) South Delta Improvements Program (SDIP), a critical water supply, water quality and environmental project designed to meet California's diverse water needs. This October, DWR and the U.S. Bureau of Reclamation released a draft Environmental Impact Report/Statement (EIR/S) for SDIP, kicking off an important public review and comment process.

SDIP is a responsible and balanced plan to better utilize and integrate our existing water management infrastructure in the Delta. Collectively, it will improve our state's water supply reliability, water quality and the overall health of the Bay-Delta ecosystem. The program will construct seasonal tidal gates to protect fish, and improve water circulation and quality in the Delta, dredge select Delta channels to improve water deliveries for local farmers, and allow State Water Project deliveries to increase modestly – only when needed and when environmentally safe to do so.

Statewide support for SDIP includes a broad coalition of water, agriculture, business, planning organizations, and local government officials including the Association of California Water Agencies, State Water Contractors, California Chamber of Commerce, California Business Properties Association and the Western Growers Association.

Water is the lifeblood of California – critical to our families, farms, and businesses. It is our responsibility to use this precious resource wisely through all possible best management practices. It is imperative that we have a more flexible water delivery system so that we can continue to accommodate growth in our population and economy while relying on existing water supplies.

Again, I strongly support the SDIP process and encourage all key stakeholders to help advance this critically needed project.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ray Watson".

Ray Watson

1115 Truxtun Avenue, Room 504 • Bakersfield, CA 93301
Tel (661) 868-3680 • Fax (661) 868-3688 E-mail: district4@co.kern.ca.us

KC-1

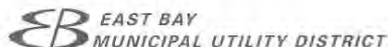
Responses to Comments

KC-1

The commenter's description of the project's benefits and support for the project are noted.

Comment Letter EBMUD

EBMUD



February 6, 2006

ROB ALLCOTT
DIRECTOR OF WATER AND NATURAL RESOURCES
(510) 287-1127
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Mr. Paul Marshall
SDIP EIS/EIR Comments
California Department of Water Resources
Bay Delta Office
1416 Ninth Street,
Sacramento, California, 95814

FEB 07 2006 00152

Subject: Comments on the South Delta Improvements Program Draft EIS/EIR

Dear Mr. Marshall:

The East Bay Municipal Utility District (EBMUD or District) is very interested in working with the Department of Water Resources (DWR) to address the District's concerns regarding the potential impacts of Stage 1 and Stage 2 of the South Delta Improvements Program (SDIP or Program). We appreciate the complexities of analyzing and documenting potential SDIP impacts and believe the District can be helpful to DWR as it fulfills its obligation to identify and mitigate Program related impacts. Accordingly, we are submitting these comments on the draft Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) for both Stage 1 and Stage 2 of the South Delta Improvements Program.

The District has two areas of concern regarding the potential impacts of the SDIP; impacts to the Mokelumne fisheries, and impacts to the levees protecting Woodward Island. Concerns regarding both of these issues were expressed in the District's October 31, 2002 letter commenting on the SDIP Notice of Preparation. With respect to the Mokelumne fisheries, the District's October 2002 letter requested that the SDIP EIS/EIR fully analyze and disclose the potential Program effects on the survival of Mokelumne juvenile salmon and the straying of returning adult salmon. Regarding the Woodward Island protective levees, the District asked that potential Program impacts to Old River velocities be evaluated and mitigations, if appropriate, be proposed. The draft EIS/EIR fails to fully address these previously identified concerns. The comments contained in this letter are focused on these two areas of continuing District interest.

EBMUD-1

A fundamental deficiency in the draft EIS/EIR evaluation of fisheries impacts is the grouping of Mokelumne and Sacramento fishery populations into a single combined unit for the purpose of determining Program impacts. Because these are two distinctly separate fisheries, on two distinctly different river systems, this grouping is inappropriate. Consequently, the draft EIS/EIR analysis and resulting findings are fundamentally incorrect. In effect, the analysis masks the Program's impacts on the Mokelumne fisheries.

EBMUD-2

375 ELEVENTH STREET • OAKLAND • CA 94607-4240 • FAX (510) 287-1275
P.O. BOX 24055 • OAKLAND • CA 94623-1055

Mr. Paul Marshall
DWR/Bay Delta Office
Page 2

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The District has been heavily involved in the stewardship of the Mokelumne fishery and its associated Mokelumne River habitat. Pursuant to a joint settlement agreement (JSA) between U.S. Fish & Wildlife Services, California Department of Fish & Game, and EBMUD, approved by the Federal Energy Regulatory Commission in 1998, EBMUD has invested over \$15 M in the conservation and restoration of the lower Mokelumne River anadromous fishery and its associated ecosystem. The District continues to invest significant resources to preserve and protect the Mokelumne fishery. Through the work performed by the District and its resource agency partners, considerable scientific information is available about the Mokelumne salmon and steelhead populations. The attached comments and recommendations for addressing deficiencies in the fisheries evaluation of the Program draft EIS/EIR are based on that work and the information presented in the draft EIS/EIR.

EBMUD-2

Additionally, there is no analysis of the potential impacts on the Woodward Island levees as a result of increased channel flows. This is of particular concern as the Stage 2 project unfolds. This issue is also more fully discussed in the attached comments.

EBMUD-3

Thank you for your consideration of these comments. If you have any questions please call Joe Miyamoto, Manager of Fishery & Wildlife at (510) 287-2021 for more information.

Sincerely,



W. R. Alcott
Director of Water and Natural Resources

WRA:PGS:cf

FEB 07 2006

EBMUD Comments on the SDIP Draft EIS/EIR

00152

MOKELUMNE FISHERY ISSUES

The draft EIS/EIR fails to adequately address the Mokelumne fisheries by omitting the Mokelumne River system from the discussion; by its flawed analysis of Mokelumne and Sacramento River data; and by acknowledging certain impacts and then failing to address those impacts.

Omissions

The following citations are indicative of the draft EIS/EIR's failure to properly consider the Program's impacts to the Mokelumne River fishery. The Mokelumne system is a critical and distinct ecosystem which must be specifically evaluated.

- Page 6.1-1: Introduction. *This assessment covers species within aquatic environments potentially affected by the SDIP, including the Sacramento, Feather, San Joaquin, and Trinity Rivers, the Delta, and Suisun Bay.* The Mokelumne River aquatic environment may be affected by the SDIP and it should be specifically identified and assessed in the draft EIS/EIR.
- Page 6.1-35: *The hypothesis is that alternate migration pathways have different effects on juvenile Chinook salmon survival from the Sacramento and San Joaquin Rivers.* The Mokelumne River provides a migration pathway for Mokelumne origin Chinook salmon and it needs to be assessed in this section. Mokelumne fishery impacts will be distinctly different than Sacramento fishery impacts, given that Mokelumne fish use the central Delta as their primary migratory path.
- Page 6.1-77: Impact Fish-44: Operations Related Decline in Migration Habitat Conditions for Chinook Salmon. *The Sacramento, Feather and American Rivers provide a migration pathway between freshwater and estuarine habitats for Chinook salmon. In the Delta, juvenile Chinook salmon survival is lower for fish migrating through the central Delta than for fish continuing down the Sacramento River channel.* This section must also include a discussion of the Mokelumne River migratory pathway.
- Page J-37: *An effective mitigation measure for export pumping entrainment impacts at the CVP and SWP pumping plants would be to extend the closure of the DCC gates continuously from November 1 through June 30. Extending the closure period for the entire 8-month period would protect a substantial portion of all Sacramento River Chinook salmon.* The draft EIS/EIR fails to consider the impact of such a closure on the Mokelumne origin juvenile salmonids. Closure of the DCC gates combined with increased export pumping may draw more fish

EBMUD-
4

FEB 07 2006 00152

from the central Delta towards the export pumps. Newman and Rice (1997)¹ showed higher survival for juvenile salmon released in the central Delta when the DCC gates were open.

EBMUD-4

The EIS/EIR needs to address these omissions by analyzing Program impacts specific to the Mokelumne fishery including the Central Delta migratory pathway used by Mokelumne origin Chinook salmon.

Flawed Analysis

The draft EIS/EIR erroneously analyzes the Mokelumne and Sacramento fisheries as a combined unit for the purpose of determining impacts. Page 6.1-85 states: *If an annual entrainment loss approaching 6,000 fish occurred during a year when production of juveniles is low (i.e., 18 million fish), the loss would represent about 0.03% of the annual production. The loss contributed by additional pumping under Alternative 2A for such a year could approach just 0.006% of the juvenile population. The simulated increase of entrainment related losses would be small, and the proportion of annual fall-run production from the Sacramento River basin and the Mokelumne River lost to entrainment would be inconsequential, having a less than significant impact on the population.*

EBMUD-5

The conclusion that the Mokelumne fish losses would be inconsequential and therefore less than significant is not supported by appropriate analysis. Mokelumne fall-run Chinook salmon have different migratory pathways than Sacramento origin salmon, especially from those fish that stay in the Sacramento River below the DCC. Because Mokelumne River fall-run Chinook salmon must migrate through the central Delta, the entrainment losses would be greater than the Sacramento Chinook losses, where only a portion of the salmon enter the central Delta. By combining the Mokelumne and Sacramento River data, the impacts on the Mokelumne fishery are greatly understated.

DWR's particle tracking models demonstrate that Mokelumne fisheries are likely to be impacted to a greater degree than Sacramento River fisheries. Particle tracking model results for particles injected in the Mokelumne North Fork and Sacramento River indicate the need to assess the effects on the Mokelumne fishery separate from the Sacramento River fishery. Page J-20 states "Table J-21g indicates that entrainment of passive particles released in the Mokelumne River, downstream of the DCC, was about 90% for all three Delta outflows, and was similar (5% or less) to the entrainment of particles released from Prisoners Point. Table J-21h shows a much lower percentage of particles entrained (50 to 60% total particles entrained) for particles injected in the Sacramento River at Freeport and Rio Vista at outflows of 5,000 to 12,000 cfs.

¹ Newman, K. and J. Rice. 1997. A statistical model for salmon smolt survival in the lower Sacramento-San Joaquin System. IEP Technical Report 59.

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The EIS/EIR must analyze Mokelumne River smolt production and entrainment losses independent of the Sacramento River smolt production and entrainment losses. The results of these particle tracking model simulations demonstrate why it is erroneous to combine Sacramento and Mokelumne data for the purpose of determining impacts. To correct this error the EIS/EIR needs to specifically address the entrainment impacts from the project on juvenile salmonids from the Mokelumne River migrating through the central Delta using Mokelumne-specific entrainment losses, smolt production, and other applicable entrainment data.

EBMUD-5

Impacts Identified but not Mitigated

The draft EIS/EIR identifies potential impacts to Mokelumne fisheries but does not appropriately quantify or mitigate for those impacts.

- Page 6.1-119 acknowledges that operation of the head of Old River fish control gate “will cause more water to be drawn from the central Delta to supply the CVP and SWP pumping, which may increase entrainment of some larval or juvenile fish from the central Delta.” This effect is quantified in Table J-22G (DSM2 Particle Tracking Results for Mokelumne River (Node 285), which shows that for the upper end of export pumping under VAMP conditions, the total entrainment of Mokelumne particles increases from 1.5% with the Head of Old River Barrier (HORB) out to 49.1% with the HORB in place. For tidal trigger simulations, the total entrainment under these conditions increases from 0.2 to 7.9% with the placement of the HORB. Accordingly, these levels of impact are significant and require additional analysis.
- The report acknowledges that compared to temporary barriers, the operation of permanent barriers would likely extend over longer periods. Permanent barrier operations at the beginning of the irrigation season in the spring could lead to more complex migration routes and increased exposure to entrainment of out-migrating juvenile salmon and steelhead from the Mokelumne River. Attachment 1 provides updated data that should be analyzed and incorporated into Tables J-23 and J-24 of the EIS/EIR. These data indicate that out-migration occurs during the January through July period, and operation of permanent flow barriers in March and April could affect this out-migration through the interior Delta. This impact should be fully addressed by the EIS/EIR.
- The draft EIS/EIR does not adequately mitigate the impacts to juvenile Mokelumne steelhead. Page 6.1-93 acknowledges “considering that the natural production of steelhead appears to be relatively low, the potential impact of a 15 – 20% increase in entrainment loss in some years is considered significant.” The report concludes that “Mitigation measures Fish-MM-1 and Fish-MM-2, already described for reducing Chinook entrainment, would reduce the impact to less than significant.” However, mitigation measure Fish-MM-1 only applies from May 16

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through May 31 and Fish-MM-2 only applies from March 1 through April 14 and May 16 through May 31. Attachment 1 to this letter indicates the proportion of juvenile Mokelumne Chinook salmon and steelhead entering the Delta by month from the updated EBMUD data base. The data indicates Fish-MM-1 and 2 do not provide protection during 50% of the juvenile chinook outmigration and 60% of the juvenile steelhead outmigration period.

EBMUD-5

Other Issues Requiring Clarification

- Page 6.1-84 states “*Most fall-run Chinook salmon entrainment losses historically have occurred during May. More than 90% of the fall-run Chinook salmon historically entrained by SWP and CVP pumping are believed to have originated from the San Joaquin River basin; therefore only about 10% of the historical entrainment losses would include fall-run Chinook salmon from the Sacramento River basin and the Mokelumne River.*”

EBMUD-6

The draft EIS/EIR does not provide documentation to support the conclusion that 90% of the fall-run Chinook salmon historically entrained by SWP and CVP pumping originate from the San Joaquin River basin. The draft EIS/EIR cites the December 2001 DWR and USBR Biological Assessment (BA) as the source, but there is no data presented in that document. Most of the impact analysis in the BA is focused on spring-run and winter-run Chinook salmon and CV steelhead. For fall-run Chinook, the BA conclusions do not mention the Mokelumne River.

- Appendix Page J-5: *Figure J-6 shows the measured density for steelhead and splittail at the SWP and CVP fish facilities in 1999. The steelhead fish densities measured at the CVP and SWP fish facilities were very low and similar and indicate a maximum density during the months March – May. . . This review of 1999 salvage fish densities from the CVP and SWP fish facilities indicates that there are months with higher densities of fish that reflect the life stage and migration patterns for each species.*

EBMUD-7

The draft EIS/EIR evaluates fish densities based on 1999 peak densities without an explanation as to why 1999 data was used. The peak densities of 1999 do not seem representative of the period from 1998 – 2003, where the mean monthly salvage at both facilities for all steelhead was highest in February, or the period from 1980 to 2002 where the highest maximum monthly average steelhead salvage density occurred in January at the CVP.

- The draft EIS/EIR indicates that increased pumping is most likely to occur during the July through October time frame to facilitate water transfers (pg. 2-15) and increased exports (pg. J-6). The Stage 2 EIS/EIR must assess potential impacts on the upstream migration of Mokelumne origin fall-run Chinook salmon and steelhead resulting from such increases. This may be a particular concern if the

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transfers occur through a Through-Delta Facility (TDF) that enters the South Mokelumne fork upstream of Beaver Slough and reverse flows occur in the south Delta at higher export levels. A greater number of Mokelumne hatchery origin fall-run Chinook salmon and non-ESU (Ecologically Significant Unit) hatchery steelhead would be expected to stray.

EBMUD-8

- The EIS/EIR needs to clarify how Fish-MM-2 will reduce the entrainment of juvenile steelhead under the increased pumping scenario of close to 500 cfs in the middle of March, as presented in [Figure 6.1-9](#). The December 2001 DWR and USBR Biological Assessment indicates that based on catch data from the USFWS Chipps Island Trawl, the peak CPUE for unclipped (wild) steelhead occurred in March.

EBMUD-9

- [Table 10-1](#) indicates a qualitative cumulative impact assessment will be completed for the Delta Cross Channel Reoperation and the Through-Delta Facility. Given the potential routing of the TDF into the South Mokelumne Fork upstream of Beaver Slough, the EIS/EIR needs to include an assessment of the risk of entrainment of Mokelumne origin juvenile salmonids under this scenario.

EBMUD-10

Supplemental Data

Attachment 1 provides updated data that should be incorporated into Tables J-20, J-23, and J-24 of the EIS/EIR.

In response to the statement regarding a “*lack of information about movement of migrating adult and juvenile steelhead in the Delta*” (as noted on [page 6.1-36](#) of the draft EIS/EIR), Attachment 2 contains coded wire tag recovery information for Mokelumne Hatchery steelhead released on February 3-5, 2004, and February 7-March 10, 2005. This information should be used in analyzing Program impacts related to entrainment loss rate and incorporated into the EIS/EIR. Adjustments to the data are needed to account for sample period at the export pumps and pre-screen losses due to predation at Tracy and CCFB. The data does indicate a significant number of hatchery steelhead that strayed to the Nimbus Hatchery. Higher export rates, Through Delta Facility, permanent operable barriers, and especially the combination of these actions may increase the straying of Mokelumne Hatchery salmon and steelhead.

The Mokelumne Hatchery releases yearling steelhead in the South Mokelumne Fork at Thornton, which flows directly to the interior Delta. The EIS/EIR should use the following data to compare the annual SWP and CVP hatchery steelhead salvage CPUE to the annual number of hatchery steelhead released from the Mokelumne River Hatchery for the period from 1998 to 2005.

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**Annual Hatchery Releases of
Mokelumne Hatchery Yearling Steelhead**

Year	Number Released Susceptible to Entrainment
1998 ¹	101,240
1999	124,969
2000	129,577
2001	111,680
2002	0 ²
2003	167,578
2004	239,951
2005	376,010

Footnote 1. August 1997 was the first year of the policy to mark 100% of the hatchery steelhead with an adipose fin clip so the hatchery fish can be separated in the export pump salvage.

Footnote 2. No hatchery fish were released in 2002 due to construction closure to expand the hatchery.

LEVEE INTEGRITY ISSUES

The District is concerned about potential impacts on the levees surrounding Woodward Island, which carries EBMUD's Mokelumne Aqueducts. The draft EIS/EIR does not specifically address the expected velocity changes in the south Delta channels that may result from increased export pumping. Those velocity changes must be identified, especially for Old River and Middle River, in order to determine whether or not Woodward Island levee stability/integrity will be affected, and whether or not mitigating measures will be necessary. It should also be noted that the Middle River channel profile has been altered as a result of the Jones Tract levee failure and subsequent repairs. Those alterations appear to be having an impact on Middle River flow velocities and may also have altered Old River flows. These issues should be addressed before selecting a Stage 2 preferred alternative.

EBMUD-11

*EBMUD SDIP Comment Letter
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Attachment 1

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**Latest Monitoring Data on Out-migration of
Juvenile Mokelumne Salmon and Steelhead**

Corrected and Updated Data on Tables J-23, J-24 and J-20.

Table J-23. The Proportion of Juvenile Chinook Salmon Production Entering the Delta from the Mokelumne River by Month

MONTH	MOKELUMNE RIVER - SALMON	
	Reported in Table J-23 ¹	Updated percentage ²
January	40.91	15.08
February	30.91	24.51
March	10.91	7.88
April	2.73	7.75
May	10.00	30.75
June	0.00	13.38
July	0.00	0.61
August	0.00	0
September	0.00	0
October	2.73	0
November	0.91	0
December	0.91	0.06

¹ Rotary Screw Trap data from EBMUD from December 1997 to August 1998

² Rotary Screw Trap data from EBMUD from December 1997 to July 2005

Table J-24. The Proportion of Juvenile Steelhead Production Entering the Delta from the Mokelumne River by Month

MONTH	MOKELUMNE RIVER - STEELHEAD	
	Reported in Table J-24 ¹	Updated percentage ²
January	44.28	3.98
February	0.73	9.57
March	2.80	12.09
April	4.62	9.22
May	2.68	17.05
June	4.74	27.18
July	5.60	19.29
August	0.49	0.14
September	0.00	0
October	0.00	0
November	0.00	0
December	34.06	1.47

¹ Rotary Screw Trap data from EBMUD from December 1997 to August 1998

² Rotary Screw Trap data from EBMUD from December 1997 to August 2005

Attachment 1
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Table J-20. Natural escapement used to calculate production of juvenile Chinook entering the Delta (from Natural Escapement) for 1970-2002.

YEAR	TOTAL MOKELUMNE ADULTS	
	Reported in Table J-20	Updated Numbers
1980	400	2592 ¹
1981	50	4954 ¹
1982	1800	6695 ¹
1983	1700	11293 ¹
1983	50	8298 ¹
1985	200	7459 ¹
1986	300	5254 ¹
1987	100	1000 ¹
1988	100	400 ¹
1989	50	199 ²
1990	50	429 ²
1991	50	368 ²
1992	300	935 ²
1993	1500	993 ²
1994	1200	1238 ²
1995	2400	2194 ²
1996	1800	4038 ²
1997	6300	3681 ²
1998	2500	4122 ²
1999	1600	2183 ²
2000	4600	1973 ²
2001	4300	2307 ²
2002	5800	2804 ²

¹ Data from CDFG Grand Tab

² Data from EBMUD FERC report

Attachment 1 (continued)
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Attachment 2
Results from 2004 & 2005
Coded-Wire Tag (CWT) Releases

	2004	2005
Release Dates	Feb 3 – Feb 5	Feb 7 – Mar 10
Release Location	New Hope Landing (Mokelumne River)	New Hope Landing (Mokelumne River)
Number Released	163,170	282,266
Size at Release (mm FL)	171	184-201
Federal Fish Facility		
Number Recovered¹	37	15
Recovery Dates	Feb 12 – Apr 3	Mar 16 – Apr 27
Size at Recovery	185-275	200-261
State Fish Facility		
Number Recovered¹	56	15
Recovery Dates	Feb 16 – Mar 22	Feb 16 – Apr 14
Size at Recovery	180-275	200-255
Nimbus Fish Hatchery		
Number Recovered	27	Not Available
Recovery Dates	Dec 22 – Feb 23	
Size at Recovery	400-530	
Mokelumne River Hatchery		
Number Recovered	20	Not Available
Recovery Dates	Dec 9 – Mar 15	
Size at Recovery	400-511	
Mokelumne River		
Number Recovered		2
Recovery Dates		May 12 – May 18
Size at Recovery		202-242
Cosumnes River		
Number Recovered	3	
Recovery Dates	May 20 – Jun 2	
Size at Recovery	211-242	
Chippis Island Trawl		
Number Recovered	1	Not Available
Recovery Dates	Feb 27	
Size at Recovery	193	

¹Raw recovery data needs to be expanded for sample period and pre-screen and with-in facility predation losses.

Attachment 2
EBMUD SDIP Comment Letter
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Responses to Comments

EBMUD-1 and EBMUD-3

Concern for potential erosion along Woodward Island (where the EBMUD aqueduct crosses the Delta) is recognized. Section 5.2 and Appendix D describe the tidal flows in the south Delta, including Old and Middle Rivers near Woodward Island. No substantial changes in flow velocities, which are controlled by the tidal flows, were identified. Refer to tidal flow results in Old River at State Route 4 (Figure 5.2-55). SDIP increased pumping will not result in any substantial changes in maximum tidal flows; the tidal velocities along Woodward Island will not change significantly.

EBMUD-2

EBMUD has contributed greatly to the restoration of Chinook salmon in the Mokelumne River and its concerns regarding the impacts of the SDIP on the Mokelumne fish is understandable. However, the analysis did not focus on fish from any single river but instead analyzed the impacts at the species level. While each river is unique and the impacts on fish from individual rivers is likely to vary to some degree from the impacts at the species level, the EIS/EIR characterized the potential impacts with a general species-level analysis.

EBMUD-4

The SDIP Draft EIS/EIR identified impacts at the species level rather than the impacts on fish from individual streams such as the Mokelumne. The Mokelumne River is considered an important Central Valley River, but all provide similar habitats for Chinook salmon, steelhead, and other anadromous and resident fish species. The SDIP Stage 1 is expected to have no direct impact on the Mokelumne fish. Although the Mokelumne River is a tributary to the San Joaquin River, operational impacts (Stage 2) are assumed to be more similar to impacts on other fish from the Sacramento River because it enters the Delta in the vicinity of the DCC and Georgiana Slough. Because rearing and migration habitat conditions are assumed to be related to river flows, which are not expected to change substantially for either Stage 1 or Stage 2 of the SDIP, there are no effects from the SDIP (Stage 2) on the Mokelumne River habitat conditions.

EBMUD-5

The SDIP impacts on Mokelumne fish would be related only to changes in conditions caused by tidal gates (Stage 1) or increased pumping (Stage 2). The fish evaluation indicates that the changes in river flows and Delta channel flows

are very small. There is no identified mechanism that would potentially affect the Mokelumne fish differently from other Sacramento River fish entering the central Delta. It is recognized that the existing migratory pathway for Mokelumne fish may be more vulnerable to entrainment in the CVP and SWP pumps than Sacramento River fish. Any additional closure of the DCC for fish protection that might be considered as mitigation of Stage 2 impacts will include a separate analysis of Mokelumne fish. Although the particle tracking results are presented in Appendix J, the potential Stage 2 fish entrainment impacts were evaluated assuming that entrainment impacts are related to export pumping. The potential effects of head of Old River gate closure on fish migrating or rearing in the central Delta will be more fully considered by the GORT.

The rotary screw trap data from the Mokelumne River indicate that substantial numbers of fry enter the Delta in January and February. These fish are likely rearing within the Delta channels and are not likely entrained at the exports. Table J-11 and J-12 indicate that the entrainment of steelhead can occur in January and February, but the mitigation measures will protect the majority of the steelhead from the Central Valley Rivers. Very little historical entrainment of steelhead has been observed in June and July, when the majority of the steelhead apparently migrated from the Mokelumne River.

EBMUD-6

Documentation for the assumption that 90% of the fish entrained in the CVP and SWP is referenced in the sentence as DWR and Reclamation BA (2001). This BA represents the best available information at this time.

EBMUD-7

The splittail and steelhead data from 1999 were used only as an example. The more complete salvage density data that were used in the analysis is found in Tables J-16 and J-17.

EBMUD-8

The water transfer window is July–September and is generally supported by agencies and is intended to have the least impact on Delta fish subject to entrainment and adult Chinook salmon moving upstream. The potential impact of increased pumping on straying of hatchery fish has not been previously identified.

EBMUD-9

The mitigation benefit of Fish MM-2 relies on the expanded EWA managers to provide mitigation (reduced pumping) during March when protection is needed to avoid the high density of Chinook salmon or steelhead and other fish. March is the peak month for steelhead entrainment.

EBMUD-10

Please see response to comment EBMUD-2. DWR and Reclamation will continue working with EBMUD to identify and resolve potential concerns during the Stage 2 evaluation process.

EBMUD-11

Please see responses to comments EBMUD-1 and EBMUD-3.

Comment Letter KCWA



February 7, 2006

KCWA

FEB 07 2006 00158

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Mr. Lester Snow, Director
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RE: Comments on the South Delta Improvements Program Environmental
Impact Statement/Environmental Impact Report

Dear Mr. Snow:

The Kern County Water Agency (Agency) appreciates the opportunity to comment on the South Delta Improvement Program Draft Environmental Impact Statement/Environmental Impact Report (EIS/R). The Agency commends the Department of Water Resources (DWR) for issuing the EIS/R and supports implementing the project.

The EIS/R provides a solid analytical foundation and a well-reasoned basis for determining the project's potential environmental impacts. The following comments are made to assist DWR in identifying areas where the EIS/R can be clarified or strengthened.

Staged Decision Process

The EIS/R attempts to lay out a staged decision process intended to reduce the potential for environmental impacts by allowing a decision on the second stage of the project to occur after additional scientific data on the Delta's pelagic fisheries becomes available. This approach is a positive feature of the project but may be misleading to some stakeholder groups. The EIS/R provides the environmental analysis for both stages of the decision process. Comments or challenges to the second stage of the project will necessarily be based on the analysis in the EIS/R. Because much of that analysis does not distinguish between Stage 1 and Stage 2 of the project, stakeholders pursuing judicial challenges to the Stage 2 decision may seek to retroactively invalidate the Stage 1 decision by attacking the environmental analysis common to both decisions. The Department should clarify that the Stage 1 decision will not be revisited during the deliberations leading to a decision on Stage 2.

KCWA-1

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Mr. Lester Snow, Director
California Department of Water Resources
February 7, 2006
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Accelerated Installation of Operable Gates Does Not Require Separate Mitigation

The CALFED Bay-Delta Record of Decision (CALFED ROD), dated August 28, 2000, was certified based on a comprehensive package of actions that included Stage 1 and Stage 2 of the EIS/R. In support of that certification, the environmental analysis performed for the CALFED ROD determined that increased pumping as described in Stage 2 of the EIS/R could precede installation of permanent operable barriers (now called operable gates and referred to as Stage 1 in the EIS/R) and precede portions of the CALFED Ecosystem Restoration Program.

KCWA-2

The EIS/R determination that Stage 1 requires mitigation separate from Stage 2 is inconsistent with the CALFED ROD. The CALFED ROD requires the installation of the gates prior to increasing pumping to 10,300 cfs, but not prior to increasing pumping to 8,500 cfs. The EIS/R does not adequately explain why the same operable gates which the CALFED ROD required to mitigate for pumping at 10,300 cfs, but not 8,500 cfs, are now required to provide mitigation for Stage 1 implementation when pumping will remain at current levels with very limited water quality, water level and fishery impacts. The EIS/R should provide an analysis of the changed water quality, water level and fishery impacts that make the environmental analysis of the CALFED ROD invalid for the purposes of Stage 1 of this EIS/R. This same analysis is applicable to Stage 2.

Existing Mitigation Not Credited Toward Potential Project Impacts

The EIS/R does not recognize the existing mitigation measures already in place to mitigate the potential environmental impacts that might result from implementation of Stage 1 or Stage 2.

KCWA-3

Some actions have already been taken, or are proposed to be taken, that would provide mitigation in excess of that provided by the 1995 amendment to the 4 Pumps Agreement. These mitigation actions, which include the following, should be credited toward any mitigation obligation for Stage 1 and Stage 2 of the EIS/R.

- Implementation of the CALFED ERP (over 400 projects with expenditures exceeding \$1 billion).¹
- 50% of the "windfall" water available to the SWP under the CVPIA was dedicated to the EWA by the CALFED ROD. This water serves to support the ROD determination that impacts of the Conveyance Program are already mitigated by the ERP.²
- Providing 500 cubic feet per second (cfs) of pumping capacity July through September when pumping above 6,680 cfs is available which results in:
- Up to 60 TAF before SWP contractors may benefit; plus
- 30 TAF after 200 TAF has been provided for beneficial export uses.

¹ The CALFED MSCS states that the Multi-Species Conservation Strategy (MSCS) for the CALFED program "... addresses the potential adverse and beneficial effects on plant and animal species of all Program actions, including ERP actions and other Program actions such as levee system integrity, water storage, and water conveyance actions. Based in large part on the ERP, the MSCS' premise is that the Program as a whole, including all program elements, will improve and increase aquatic and terrestrial habitats and improve ecological functions in the Bay-Delta. The ERP, therefore, serves two purposes: 1) to achieve Program objectives for ecosystem restoration; and 2) to enable actions from all Program elements to be completed in compliance with FESA, CESA, and NCCPA."

² See Footnote 1.

Mr. Lester Snow, Director
California Department of Water Resources
February 7, 2006
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The EIS/R fails to consider or discuss how these existing mitigation activities are credited toward the potential environmental impacts of Stage 1 and Stage 2. As a result, it is likely that Stage 1 of the project is over mitigated and possible that Stage 2 also is over mitigated.

KCWA-3

Unbalanced Implementation of the CALFED Program Provides Surplus Mitigation

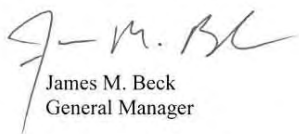
Recent review of the CALFED Program by the Department of Finance indicates that implementation of the CALFED ERP has outpaced implementation of other programs, including the conveyance program. This differential in implementation is a significant factor in the general consensus that the CALFED Program is unbalanced. The advanced degree of implementation for the ERP also results in greater environmental benefits to the South Delta ecosystem than originally anticipated when the CALFED ROD was certified. As a result, the "trajectory of recovery" exceeds what was included in the environmental analysis of the CALFED ROD because the conveyance projects were not implemented on schedule. The EIS/R does not adequately explain why greater than expected implementation of environmental programs under the CALFED ERP as compared to implementation of the CALFED Programs included in the EIS/R does not reduce the mitigation necessary for Stage 1 and Stage 2 projects.

KCWA-4

The Agency participated in the preparation of comments on the EIS/R submitted by the State Water Contractors, Inc. by letter dated February 7, 2006. The Agency agrees with and supports those comments and hereby incorporates them by reference.

The Agency appreciates the opportunity to comment on the EIS/R. If you have any questions regarding these comments, please contact Mr. Brent Walthall of my staff.

Sincerely,


James M. Beck
General Manager

cc: State Water Contractors, Inc.

Responses to Comments

KCWA-1

Text in Chapter 2 of the SDIP Draft EIS/EIR has been modified per your comment.

KCWA-2

The gates themselves do not provide mitigation of Stage 1, in which the SWP exports are operated under existing rules and regulations. However, specific operations of the gates can result in improved conditions in the Delta for fish and diversers. DWR and Reclamation are committed to continuous improvements in the Delta, as called for in the CALFED ROD, and therefore are pursuing the implementation of Stage 1 regardless of what Stage 2 decisions are made.

KCWA-3 and KCWA-4

CALFED actions implemented specifically to improve habitats and the environment help to reduce the effects of the overall CALFED Program on these resources. However, CEQA and NEPA require lead agencies to identify and mitigate specifically for impacts on environmental resources resulting from a specific project. Therefore, specific mitigation of each specific impact resulting from the implementation of the SDIP is proposed. Although the ERP and other programs consistent with CALFED benefit the environment, DWR and Reclamation do not commit to them as specific measures they will implement to mitigate effects of the SDIP, and therefore these measures are not credited toward the SDIP.